

June 26, 2024

**Via ECF**

Hon. Miroslav Lovric  
Magistrate Judge  
United States District Court  
Northern District of New York  
Federal Building and U.S. Courthouse  
15 Henry Street  
Binghamton, New York 13901

Re: Robert Hunter et al. v. Cortland Housing Authority et al.  
NDNY Case No.: 5:23-cv-01540 (GTS/ML)

Dear Magistrate Lovric:

Our office represents Defendants, Cortland Housing Authority (“CHA”) and Ella M. Diiorio (“Ms. Diiorio”) in the above-referenced action. Respectfully, Defendants submit this letter in accordance with the Court’s June 12, 2024, Order directing all parties to file a status letter by June 26, 2024, as directed and set forth at the June 11, 2024, Hearing.

Regarding the drafting of a protective order, the parties have exchanged drafts of said and are continuing to work toward finalizing an order.

The parties were also able to meet and confer regarding the discovery issues raised by Defendants Letter Motion dated June 4, 2024. (Dkt. [#51](#)). The parties also discussed other outstanding discovery issues relating to Plaintiffs’ demands and Defendants’ responses. A copy of a letter summarizing those discussions is annexed hereto as Exhibit 1. In summary, the parties agreed that a number of discovery issues may be resolved with the entry of a protective order. The parties have also agreed to continue to meet and confer to discuss areas of disagreement.

In response to the Court’s questions about the specifics of the locations of CHA’s developments. The CHA owns or maintains properties in six townships or cities within the County of Cortland. They are located in Cortland (22 separate buildings in 10 spatially distinct locations throughout the city), Cincinnatus (2 buildings), McGraw (3 buildings), Marathon (1 building), Homer (3 buildings in close proximity), and Truxton (2 buildings in close proximity). In some of the municipalities there are multiple CHA properties; however, they are all spatially distinct from each other. The closest property to Plaintiffs’ development in Marathon is the 5 South Street property in McGraw, NY which is about twelve miles (16-minute drive) from their homes. The

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property located at 42 Church Street in Cortland is about fifteen miles (20-minute drive) from their homes.

Since the beginning of this action, there have been only two tenants that moved into the 37 Galatia Street building. One moved in between December 7, 2023 and April 10, 2024. The other moved in after this Court's Order. Defendants were able to preserve the background checks of both tenants. Again, the criminal background checks of tenants Defendants have proposed that middle ground on the current discovery dispute may be for Defendants to redact the tenant's identifying information as well as their current address. In this way, Plaintiffs get the demographic information they claim to need without exposing tenants to any unnecessary embarrassment or harassment. Although, Defendants are concerned on the intended use of this information based upon Plaintiffs' recent proposed amendments that are denigrating CHA's tenants.

In addition, I must correct a prior statement. Mr. Merrin has not been a tenant of the CHA since 2005. Mr. Merrin has been a tenant of the CHA since 2015. I incorrectly wrote Mr. Merrin's move in date as 2005 in my notes. There have only been twenty-one tenants that moved in to 37 Galatia Street since 2015 which include Plaintiffs. Again, those records were purged in accordance with the CHA's policy before the commencement of this action

To this end, a court order may still be necessary regarding the criminal background. The CHA contractor responded to our inquiry regarding the release of information gathered during a background check. They confirmed they do not store any information received from the FBI systems, as per FBI requirement. They also do not have access to the fingerprints once the search is completed. The contractor also provided a copy of the Outsourcing Channel Noncriminal Justice Information Technology Security Audit Policy Reference Guide, attached as Exhibit 2. According to the policy, the contractor is not providing information contained in the FBI system to anyone but the CHA. It also cannot disseminate the information without (1) CHA approval and (2) authorization under federal and state laws, regulations, and standards as well as with rules, procedures, and standards established by the Compact Council and the United States Attorney General. The CHA, as an Authorized Agent, is bound by similar rules in order to be able to utilize the FBI's information.

Respectfully,

THE TOWNE LAW FIRM, P.C.

*s/ Mark T. Houston*

By: \_\_\_\_\_

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Cc: Counsel of Record (*Via NYSCEF*)